



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Thami SMIRES et al.

Serial No: **10/658,405**

Group Art Unit: **3624**

Filed : **September 10, 2003**

Examiner: **S.M. Diaz**

For : **METHOD AND APPARATUS FOR CONDUCTING
TRANSACTIONS GENERATED AT POINT-OF-SALE
LOCATIONS**

DECLARATION UNDER 37 C.F.R. 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, the undersigned, Thami Smires, Paul Sabella and Glen Dentice, hereby declare as follows:

1. We are the inventors in the patent application identified above recited in claim 1 as originally filed and the additional claims as amended in the present amendment filed contemporaneously with this Declaration.

2. Prior to July 22, 2002, the priority dates of United States Patent Application 10/624,412 filed in the name of Kim et al, the invention described in the above-noted patent application and claimed therein was conceived and reduced to practice. The conception of this invention as well its reduction to practice is evidenced by Exhibit I entitled "Cynergy Data Introduces Charge Anywhere by Comstar Interactive Inc." and Exhibit II entitled "Comstar's Charge Anywhere™ Debuts as Functional Wireless POS Solution Available in Marketplace".

3. The subject matter described in Exhibits I and II were developed for Comstar Interactive Inc. by the undersigned.

4. Table I shows a correspondence between the elements of claim 1 as originally filed in the present patent application and as presently maintained in the present application. This table demonstrates that the entire invention was conceived and reduced to practice prior to July 22, 2002.

TABLE I

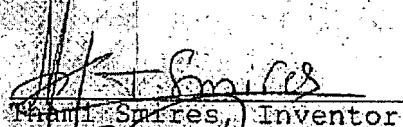
Claim 1. The system for controlling the processing of credit card and debit card transactions, between various types of point of sale terminals initiating the transactions transmitted ultimately to a plurality of credit card processes through a plurality of gateway networks, comprising:	Paragraph 2 of Exhibit I describes a system for wireless credit card transactions. Paragraph 3 of Exhibit II indicates a plurality of credit card processors are utilized.
a credit card server in communication with a plurality of gateways and the credit card processors, said credit card server receiving a credit card or debit card transaction request from the point of sale terminal devices through the plurality of gateway and networks, said credit card server processing the transaction and sending the transaction to any of the credit processors, said credit card server communicating with the terminal devices indicating the disposition of each of the transactions:	Paragraph 2 of Exhibit I indicates that the credit card server would allow instant approvals of all transactions. Paragraph 3 of Exhibit I indicates that the merchants are enabled to log on to the credit card server's web site.
a database connected to said credit card server from obtaining and reading information relating to the transactions and the point of sale terminal devices: and	a reading of Exhibits I and II would indicate that the credit card server must contain a database relating to the transactions.

<p>a transaction manager connected to said credit card service for managing a web site allowing the merchant associated with each of the point of sale terminal devices to view their respective transactions as well as authoring the transactions.</p>	<p>Paragraph 8 of Exhibit II specifically describes the transaction manager. Additionally, paragraph 3 of Exhibit I indicates that the merchants can log on to a web site to see the particular transaction.</p>
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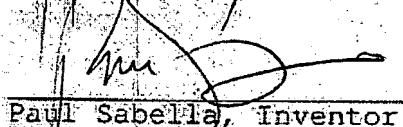
5. Between July 22, 2002, the filing date of the Kim et al patent application and September 10, 2002, the filing date of applicant=s provisional application, the inventors were diligent in preparing material to be sent to their patent attorney, Mitchell Wasson of Hoffman, Wasson & Gitler for the purpose of filing the aforementioned provisional patent application.

6. We hereby declare that all statements made herein of our own knowledge are true and all statements made on information and conjecture are thought to be true; further that these statements were made with the knowledge of willful false statements and like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

10-02-07
Date


Thambi Spires, Inventor

10-02-2007
Date


Paul Sabella, Inventor

10-2-07
Date


Glen Dentice, Inventor

4/9/3 (Item 2 from file: 16) Links

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09430453 Supplier Number: 82754706 (THIS IS THE FULLTEXT)

Cynergy Data Introduces CHARGE ANYWHERE by Comstar Interactive, Inc.

Business Wire , p 2647

Feb 11 , 2002

Language: English Record Type: Fulltext

Document Type: Newswire ; Trade

Word Count: 497

Text:

Business Editors

NEW YORK--(BUSINESS WIRE)--Feb. 11, 2002

Cynergy Data offers the latest technology advancement in point-of-sale processing, the new **CHARGE ANYWHERE(TM)** by **Comstar** Interactive, Inc.

The user friendly designed and compact sized **CHARGE ANYWHERE(TM)** allows merchants to accept wireless credit card transactions, send emails and faxes, and send and receive pages. Additional benefits offered include instant approvals on all transactions, lower processing fees, reduced fraud exposure, near real time reports, the ability to produce customer receipts, and lightweight easy mobility.

The new **CHARGE ANYWHERE(TM)** comes with the **CHARGE ANYWHERE(TM)** Manager. Using a secured password, this allows merchants to log on to **Comstar**'s website and see the transactions of the wireless devices, up to the minute. The manager can also export reports to Microsoft excel for billing, payroll and accounting reporting.

Beneficial to all businesses, **CHARGE ANYWHERE(TM)** also enables specific industries to especially flourish with the integration of this device. Among these industries are taxi services, limo services, delivery services, and general mobile services such as locksmiths, plumbers, exterminators, contractors, salesmen, etc.

"Businesses of all shapes and sizes can enjoy the full range of services offered by **CHARGE ANYWHERE(TM)**", said John R. Martillo, president of Cynergy Data. "With the introduction of **CHARGE ANYWHERE(TM)**, Cynergy Data along with **Comstar** Interactive are opening new roads to opportunity by allowing businesses to process mobile credit card transactions which they were once incapable of supporting."

"We are very excited about teaming up with Cynergy Data to sell the **CHARGE ANYWHERE(TM)** product", says J.D. Gardner, CEO of **Comstar** Interactive Corp. "**CHARGE ANYWHERE(TM)** is the

EXHIBIT

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perfect addition to Cynergy Data's outstanding product line".

By the offering of this great priced first of its kind technology through Cynergy Data, merchants will encounter better business solutions along with payment solutions.

About Cynergy Data

As one of the fastest growing merchant acquirers in the nation, Cynergy Data provides an array of electronic processing options to retail, restaurant, mail order, telephone order, and Internet businesses. Services include credit, debit and EBT card processing, check conversion with guarantee, electronic gift certificate processing, and equipment leasing and sales. With corporate headquarters in New York, Cynergy Data has built a solid foundation based on unprecedeted service and integrity. As Cynergy Data continues dynamic growth and maintains top position, focus of the needs held by Independent Sales Offices, representatives, and merchants remains a priority along with the ability to offer pricing, products and programs that fit today's market.

About Comstar Interactive, Inc.

A vertically integrated wireless solutions provider, **Comstar** Interactive Corp. (**Comstar**) runs the gamut from wireless software developer to specialty integration engineering shop - all while maintaining and capitalizing on one of the largest and most valuable enterprise user bases of interactive wireless handhelds in the country.

Comstar is one stop shopping for all your wireless data needs.

4/9/5 (Item 1 from file: 20) Links

Dialog Global Reporter

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24532397 (THIS IS THE FULLTEXT)

Comstar's CHARGE ANYwhere(TM) Debuts as Most Robust, Functional Wireless POS Solution Available in Marketplace

PR NEWSWIRE (US)

August 21, 2002

Journal Code: WPRU Language: English Record Type: FULLTEXT

Word Count: 923

Comstar Interactive Corp., an innovator of Web-based wireless solutions, today launched the groundbreaking **CHARGE ANYwhere** (TM) wireless credit card processing solution, an easy-to-use, complete point-of-sale (POS) service that is feature-laden yet affordable. The scalable solution allows businesses to securely make transactions in the field and to manage them on-line, in real-time.

CHARGE ANYwhere combines a compact card swipe device with an innovative, customizable Web-based transaction database and reporting system and other features in one low-cost package. It gives businesses a robust and economical way to securely execute, authorize and manage wireless credit card payments in real-time.

CHARGE ANYwhere also includes check authorization and two-way messaging as standard features, and is compatible with certain dispatching applications to create a truly multi-functional solution for any business that conducts transactions in a mobile environment. These include taxi and limousine companies, emergency service operations such as towing and locksmiths, HVAC, plumbing, electrical and appliance repair contractors, restaurants that process at-table payments, fast food delivery and retail.

"**CHARGE ANYwhere** sets a new standard in the marketplace because it makes wireless POS much more attractive and affordable to a wider field of businesses, many of which had been previously turned off by too high costs and too little functionality," said J.D. Gardner, President and CEO of **Comstar** Interactive. "Customers simply pay one price for such up-front components as the device and software for **CHARGE ANYwhere**'s full suite of standard features -- and save hundreds of dollars off what the rest of the industry is charging just for mobile terminals. The monthly **CHARGE ANYwhere** service charge is extremely affordable, as well."

Larry's Limos, a full-service limousine operator based in Birmingham, AL, has been a **Comstar** beta customer using **CHARGE ANYwhere** for the past several months. Lawrence Carmon, President of Larry's Limos, said that **CHARGE ANYwhere** has been an extremely useful addition to his business.

EXHIBIT

II

"I'm very happy with **CHARGE ANYwhere**," Mr. Carmon said. "It is easy to use and provides me with peace of mind because I get a credit card authorization on the spot -- I no longer have to wait until I get back to the office to process a card to find out if it's valid. **CHARGE ANYwhere** also further enhances the image of the business because we're using the latest technology. We pick up a lot of high-profile people, such as CEOs, investment bankers and the like. When they give me their credit card and I swipe it through my device, they're amazed and ask me a lot of questions about the service and its capabilities."

The **CHARGE ANYwhere** solution includes a wearable, state-of-the-art device that incorporates a magnetic card swipe reader with the popular BlackBerry-class RIM 950/850 Wireless Handheld(TM) -- featuring a full QWERTY keyboard -- enabled for either the Cingular Wireless Mobitex network or the Motient network, the two largest nationwide wireless data networks in the U.S. The device connects wirelessly through Comstar's powerful **Gateway** with industry-leading credit card processing companies to complete authorizations on average within five to seven seconds.

The **Gateway** processes data that feeds Comstar's Web-based transaction management system. Called "**CHARGE ANYwhere Transaction Manager**," it gives customers a real-time view via their desktop computer of credit card sales taking place in the field by their representatives. Transaction Manager allows customers to query, create and print custom reports and import/export data into back-office software, or via Excel or CSV format for easy integration directly into a company's legacy systems. Comstar's software also allows for devices to be re-configured wirelessly over-the-air -- an industry first -- giving customers the flexibility to easily capture additional data as their business requires.

There are several versions of reporting software available in conjunction with Transaction Manager that are customized to various industries. This gives customers the precise information -- specific to their particular business area -- that they need to accurately track transactions taking place in the field.

The solution is secure from top to bottom. **CHARGE ANYwhere** employs the highest level of end-to-end security available today in the wireless POS industry with 256-bit randomized encryption over-the-air and 1024-bit for Transaction Manager.

"**CHARGE ANYwhere** is at the cusp of where the wireless POS industry is moving," Gardner explained. "Customers today require robust yet easy-to-use solutions that tie into their desktop databases or other back office system to give them access to critical information regarding their business and their customers. **CHARGE ANYwhere** fulfills those requirements by allowing businesses to be more competitive, provide their customers with more flexibility and convenience in paying for the goods and services they receive, and efficiently manage their business operations with real-time access to important data, in a cost-effective manner."

For more information or to purchase **CHARGE ANYwhere**, please call Comstar Interactive at (800) 211-1256, ext. 150.

Comstar Interactive Corp. is a privately held, New York City-based innovator of Web-enabled wireless solutions both for businesses

and individuals whose primary investor is **Tesla** Capital of San Francisco. It delivers to customers secure, end-to-end solutions that combine cutting-edge software, hardware, middleware and **gateway** services with the superior nationwide coverage and reliability of the leading wireless data networks in the U.S. **Comstar**'s comprehensive wireless product suite includes credit card processing, e-mail access and messaging solutions that are backed by a roster of trusted industry-leading partners. **Comstar** solutions are scalable, affordable feature-rich, easy-to-deploy and use -- and produce a quick and demonstrable return on investment. For more information on **Comstar**'s products and services, please go to <http://www.comstarinteractive.com/>.

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Web site: <http://www.comstarinteractive.com/>